

Kentucky Family Matters



News & Information About Kentucky Family Court

Summer 2004

Hardin County implements Family Court in June

Hardin County officially welcomed Family Court June 18 when Supreme Court Justice William Cooper administered the oath of office to Pamela Kay Addington, who was sworn in to serve as the first Family Court judge for Hardin County. Judge Addington's appointment by Gov. Ernie Fletcher, coupled with the June 2 retirement of Circuit Judge Steve Bland and his move to senior status, allowed Family Court to become a reality for the citizens of Hardin County, previously the second largest Kentucky county without Family Court.

Judge Addington ascends to the bench after practicing general law, consisting of both civil and criminal cases, for more than 20 years. She earned her juris doctor from the University of Louisville Brandeis School of Law and her bachelor's degree from the University of Kentucky.

Chief Justice Joseph Lambert said Hardin County took advantage of an opportunity presented by the entry of Judge Bland into the Senior Status Program. "Unique circumstances have allowed us to provide Hardin with the equivalent of one and one-half Family Court judges to handle the heavy case load," said Chief Justice Lambert in a recent news release.

He said that Judge Addington was appointed to take the place of Circuit Judge Bland, who has agreed to serve as a senior status judge for Family Court. This means he will work between 120 and 180 days a year for five years in exchange for a modified retirement benefit.

Judge Bland said he welcomes this change. "With my retirement and entry into the Senior Status Program, the citizens of Hardin County will no longer have to delay receipt of the benefits of Family Court," said Judge Bland. "By combining all cases involving one family into one court, the services of Family Court can attempt to deal with all of the issues facing a family in crisis. I look forward to my service as a Family Court judge."

"It is fitting that Hardin County Family Court began implementation in June, which Gov. Fletcher declared as Family Court Month in Kentucky," said Carla Kreitman, manager of the Family Court Department for the AOC.

Judge Addington heard her first docket as a Family Court judge less than an hour after being sworn in. "I am very excited about Family Court," she said. "The focus on providing social services for families is a benefit for those who come to Family Court. The first few days on the bench have been busy and exhilarating. After this initial transition period, I am confident that streamlining the circuit and district family law and juvenile cases into one coordinated court will better serve Hardin County."

Longtime Circuit Court secretary Judy Boone continues to serve both Family Court judges. She started in 1979 as then Judge William Cooper's secretary. In 1994, she began serving as secretary for then District Judges Bland and Janet Coleman, moving to Circuit Court in 1997 when Judge Bland became a circuit judge.



Supreme Court Justice William Cooper administered the oath of office to Hardin County Family Court Judge Pamela Kay Addington.

Donna Chaudoin is the new Family Court administrator. She graduated from Elizabethtown Community College and also from Sullivan University as a paralegal.

Marie Colasanti is the new Family Court support worker. She graduated from Western Kentucky University with bachelor's degrees in psychology and family studies and has worked for the Cabinet for Health & Family Services for the last six years.

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From the Desk of the Family Court Manager

By Carla Kreitman, J.D.
Department of Family Court

This edition of *Family Matters* provides a wonderful snapshot of what Family Court has been doing this spring. In addition to the work on the bench and in the courtroom, Family Court judges and staff have been educating each other, coordinating and implementing new projects, such as Family Drug Court programs and workforce collaborations, and contributing to their communities. This newsletter highlights some promising practices that might be worth replicating in your community. A round of applause for the judges and staffs who work together to serve the families and children of Kentucky!

Family Court is a progressive model for implementing court improvements. Apart from the foundational value of "one family, one judge," Family Court requires continuity for a number of compelling reasons. While an information management system is a good resource for the judiciary, it is not a substitute for experience and

knowledge. Effective enforcement of orders requires a jurist who is conversant with community resources. Knowledge of a service organization's track record in previous cases could impact the decision to use them in the case currently being heard.

It strikes me as particularly fitting that Hardin County Family Court began its implementation in June, which Gov. Fletcher declared Family Court Month in the Commonwealth of Kentucky (photo at left). With this proclamation, we laud the efforts of our specialized, committed Family Court sites.

Kentucky Family Court will be involved in a number of exciting initiatives this summer including:

- ✓ *Lunch n' Learn About Family Law* is a collaborative project that will educate the public about Family Court and family law issues.
- ✓ *JOE (Jobs or Employment)* is an initiative piloted by Henderson Family Court and the Department of Vocational Rehabilitation, Department for Employment services, and Henderson Community College.
- ✓ Assessment and revision of Family Court forms and publications.
- ✓ Developing quarterly, distance-learning meetings to keep Family Court sites apprised of changes in law, process and procedure.

Finally, we wish to recognize the contribution of our summer intern, Michael Niemietz, who in a scant few weeks has already proven his worth in compiling research and data analysis. Michael is a second-year law student from the University of Kentucky and we are already wondering how we can entice him to stay.

Have a great summer, all, and don't hesitate to contact us with questions or concerns! I would urge you to continue to visit www.kycourts.net for new information on Kentucky Family Court.

"Information is that which changes us."
- Stafford Beer

Case Law Update

On April 2, 2004, the Kentucky Court of Appeals rendered an opinion in *Kirby v. Commonwealth, Ky. App., 132 S.W.3d 233*, stating that degrees of kinship should be computed by the common law method rather than the civil law method when interpreting the domestic violence statutes.

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Family Drug Court model is unique solution to familiar problem

By Becki Evans
Family Drug Court Coordinator

In recognition of the crisis that affects families of substance abuse, the Jefferson County Attorney has created Family Drug Court, a research-based program that builds on the principles of Drug Court.

The Family Drug Court model is carried out in collaboration with Jefferson Family Court Judge Eleanore Garber and the Cabinet for Health & Family Services. It combines legal accountability, gender-specific treatment, case management, and increased community and family involvement. All treatment and case management offered through the program come from a strength-based model and include individualized care. Care is ongoing and continues for up to six months after the client's children have been placed back in the home.

The mothers in the program have entered the legal system through Family Court. They have temporarily lost custody of their young children due to drug or alcohol abuse, and the children have been placed in care outside of the home. The program begins with intensive chemical dependency treatment for each client and continues until the client is stable. The desired outcome is to reunify families and staff work closely with the Cabinet for Health & Family Services to make this happen.

Family Drug Court also focuses on the hardships children face when living with a parent who is abusing drugs. In order to address the physical, emotional and social maltreatment these children endure, participants are offered parenting classes, family treatment, and a children's program to help the children gain insight into family recovery. All of the programs are culturally inclusive and designed to fit the needs of the participants.

The objective is to ensure the safety and well-being of Kentucky's children through family preservation or permanent placement consistent with the requirements of

the Adoption and Safe Families Act. Our goal is a retention rate of 70 percent of all participants, and safe, sober and stable homes in which to reunify the families.

Family Drug Court has been in existence for 18 months and has had much success. During our quarterly graduation on June 10, we celebrated the graduation of two women and their reunification with their four children.

A Success Story

Ms. N was one of the original clients referred to Family Drug Court when it was still a pilot project. Ms. N had four children and two of them had been in the care of the eldest child's father for two years. The youngest two remained in the custody of Ms. N.

Ms. N had been in treatment several times prior to presenting at Family Drug Court. She had sought help at different facilities, including a halfway house, and had been discharged from all facilities for non-compliance. She seemed a good candidate for Family Drug Court due to a need for added accountability.

She began Family Drug Court in October 2001 and initially struggled with the three main rules, **show up**, **try hard** and **be honest**. She reported that she wasn't used to being held accountable for her actions.

After a rocky start, Ms. N began to make progress. She continued in treatment for more than a year. Not only was she treated for her addiction, but she became active in a 12-step program, was able to gain successful employment and found stable housing.

Ms. N graduated from the Jefferson County Attorney's Family Drug Court after attending for just over one year. Her two children were returned to her custody, and today she remains drug-free, reporting regularly to her Family Drug Court counselor to let her know she is doing well.

Good secretaries, paralegals make good lawyers

By Maggie W. Pearson
Family Court Administrator
Warren County Family Court

The Lawyers Care Volunteer Attorney Program, Warren County Family Court and the Bowling Green-Warren County Bar Association teamed up in January to present a seminar titled "Good Secretaries and Paralegals Make Good Lawyers." Warren County Family Court Judge Margaret Ryan Huddleston hosted the event, which was offered to the staffs of attorneys who practice in Family Court.

Eighty-three secretaries and paralegals attended the seminar. The training offered practical advice — direct from the bench — on best practices for complying with Family Court rules and procedures. Judge Huddleston and her staff led the session, providing check lists, flow charts and valuable tips to facilitate the Family Court process.

The topics included "How to Streamline the Filing Process," "Petitions for Child Custody," "Petitions for Termination of Parental Rights," "Petitions for Adoption, Forms and Pleadings," "Ethical Considerations" and a general discussion.

Judge Huddleston closed the training with a question-and-answer session.

The seminar proved to be a success in that it received a positive response from all who attended.



Judge Margaret Huddleston led the best-practices training session for staffs of attorneys who practice in Family Court.

From Vision to Victory:

Family Court hosts regional trainings across the state

Family court judges, their staffs, circuit clerks and deputies participated in Family Court regional trainings that began in April and concluded in June. The trainings were designed to meet a region's specific needs and took place in Warren, Floyd, Boone and Oldham counties.



Julie Paxton, Family Court Judge for Floyd, Knott and Magoffin counties

Warren County

Warren County Family Court Judge Margaret Huddleston welcomed participants to the April 8 regional training at the Warren County Judicial Center.

Court of Appeals Judge John Minton gave a presentation titled "Family Court and Public Relations," which concentrated on the skills necessary to manage a court site while encouraging positive community relations.



Mickey Foellger, Family Court Judge for Campbell County

Floyd County

Floyd County Family Court hosted the second regional training April 23 at Jenny Wiley State Park. Supreme Court Justice Janet Stumbo graciously gave opening remarks while Julie Paxton, Family Court judge for Floyd, Knott and Magoffin

counties, recuperated from laryngitis. Judge Paxton's voice returned in time for her to present a session called "Strengthening Public Confidence," which addressed the importance of public support to successful Family Court sites.



Jim Grace, Cabinet for Health & Family Services

Campbell County Family Court Judge Mickey Foellger discussed family legal issues during his presentation titled "Improved Court Practice in Child Abuse and Neglect Cases."

Boone County

Burlington was the site of the third regional training May 3. Legal Counsel for the Kentucky Domestic Violence Association, Lisa Beran and Jim Grace with the Cabinet for Health & Family Services presented a workshop called "Effective Intervention in Domestic Violence Cases." The session addressed domestic



Lisa Beran, Kentucky Domestic Violence Association

violence and Kentucky's gun prohibitions relating to domestic violence. Beran serves as a national consultant and trainer on domestic violence issues, while Grace develops policy and legislation for the Cabinet for Health & Family Services' Division of Protection and Permanency.

Janet Jernigan, Jeannie Tan Trudell, Rose Colley

and Earnest "Camp" Edwards from Just Solutions Mediation Services in Louisville shared tips on

developing listening, analyzing and paraphrasing skills for dealing with difficult situations and people.

Oldham County

The final regional training was June 4 at the Oldham County Community & Convention Center in LaGrange. Nicole Jackson, staff attorney for Family Court Judge Karen Conrad, welcomed the 60 participants to Oldham County. Jefferson County Family Court Judge Patricia Walker FitzGerald gave an overview of

challenges the courts face with child abuse and neglect cases.

Through the regional training sessions, Kentucky Family Court acted on its commitment to continually improve the quality of services provided to families in the court system.



Supreme Court Justice Janet Stumbo gave opening remarks at the Floyd County regional training.



Court of Appeals Judge John Minton



Jeannie Tan Trudell of Just Solutions Mediation Services



Jefferson Family Court Judge Patricia Walker FitzGerald

Negotiation savvy calls for strong listening skills

By Janet A. Jernigan
Executive Director
Just Solutions Mediation Services

In the story below, the librarian didn't concentrate on the positions of the two men — window open or closed. Rather she focused on their interests — fresh air and avoiding drafts. That focus made all the difference in her ability to find a solution that worked for both men.

People in conflict have a natural tendency to think and talk in positions. Positions are statements or demands framed as solutions. For example, "The window must be closed" or "I insist the window be kept open." Under the rhetoric of positions lie interests. Interests are broader than positions: They encompass needs, hopes, concerns and fears. Your position is something you have decided upon. Your interests are what led you to reach that decision.

We don't always have a librarian or third person available to help solve our disagreements. In any dispute, whether with a co-worker, client or spouse, you will find it helpful to:

- Identify and communicate your interests.
- Identify and respond to the interests of the person with whom you have a conflict.

You can help others understand your interests by explaining exactly what your interests are. "The reason I would like the window closed is that I have a cold and I don't want to make it worse by sitting in a draft."

Equally important is listening to the interests of the other party if you're to reach an outcome that works for both parties. If you want the other party to respond to your interests, begin by demonstrating that you understand and appreciate their interests. "It sounds like you're under the gun to complete your paper and you need fresh air to stay awake."

Listening is an art, a skill and a discipline. Listening is based on hearing and understanding what others say to us. Hearing becomes listening only when we pay attention to what is said and follow it closely. If we're busy thinking of a response, jumping in with questions or advice, or interpreting a situation, we aren't really listening. Each of us has experienced the listener who:

- Argues and interrupts.
- Passes judgment too quickly or in advance.
- Gives advice without being asked.
- Jumps to conclusions.

The skilled listener is not afraid of silence and, in fact, has the necessary self-mastery to be silent. Yes, being silent is difficult for most of us, but with practice you can acquire the skill.

The skilled listener also learns how to paraphrase a speaker. Paraphrasing lets the other person know you are trying to understand the problem. Simply stated, paraphrasing is stating in your own words what someone else has said. The focus is on the speaker, not on the listener.

Speaker:

"Mabel is so annoying. The problem isn't with my office, it's with hers. She's difficult to work with and always wants everything done her way. She doesn't seem to understand that her way of doing things doesn't always work for us."

Listener:

"It sounds like you're frustrated with Mabel and how she communicates with you and your staff. You feel she is unfamiliar with the needs your office faces."

Consider the story of two men quarreling in a library. One wants the window open and the other wants it closed. They bicker back and forth about how much to leave it open: a crack, halfway, three quarters of the way. No solution satisfies them both.

Enter the librarian. She asks one why he wants the window open: "To get some fresh air." She asks the other why he wants it closed: "To avoid the draft." After thinking a moment, she opens wide a window in the next room, bringing in fresh air without a draft.

From *Getting to Yes: Negotiating Without Giving In*
By Roger Fisher and William Ury

The skilled listener briefly restates what the other person says, including the feelings and facts. He or she doesn't advise, evaluate, analyze, interpret, support, question or probe what was said, unless asked to do so by the speaker.

When in conflict, sharpened listening skills will help you listen for and identify another person's interests, and reach outcomes that meet both of your needs.



Lee Guice, general manager for Administrative Services at the AOC, practices paraphrasing with Craig McWhorter from Campbell County Family Court during a session on negotiating skills at the Family Court regional training program in Boone County.



Federal Firearm Restrictions and Domestic Violence

By Lisa Beran, Legal Counsel
Kentucky Domestic Violence Association

Although the federal firearm restrictions that come into play in cases of domestic violence have been in effect since the mid-1990s, there is still great confusion regarding how these restrictions are applied. While there is controversy and some disagreement regarding these restrictions in domestic violence matters, the restrictions are really a matter of safety — safety for the victim but also safety for law enforcement officers who must respond to any domestic violence calls received and who must serve domestic violence orders on respondents. It is a matter of community safety, too, as we recently witnessed in the shooting death of the EMS worker who responded to a domestic violence call in Lexington.

Research backs up these concerns as approximately two-thirds of the intimate partner homicides in this country are committed using guns.¹

There are two federal firearm restrictions that arise in the context of domestic violence cases. Both are provisions of the Gun Control Act, 18 U.S.C. § 921 et seq. The first provision, enacted in 1994 and referred to as the “Brady Bill,” can be found at 18 U.S.C. § 922 (g)(8). This provision basically holds that someone who is the respondent to a [qualifying] protective order cannot possess, ship or receive a firearm² or ammunition during the amount of time the protective order is in effect. The provision only applies to orders where the respondent has had an opportunity to appear at a hearing. Therefore, in Kentucky the provision would apply only to our domestic

violence orders (DVOs), not our emergency protective orders (EPOs).

Additionally, the prohibition only applies to protective orders where the parties are intimate partners — individuals who are spouses or former spouses; currently live together or have lived together in the past (includes homosexual couples); or have never lived together or married but have a child in common. It also includes orders where the respondent is the parent of the petitioner but not the other way around.

If the DVO is an order involving these parties, then the respondent is prohibited under federal law from possessing a firearm or ammunition for the amount of time the protective order is in effect. However, under this provision, there is a “use exemption” for law enforcement officers, armed forces personnel, and other local, state and federal employees who are required to use weapons as part of their official duties. The exemption permits them to possess their “duty” weapon during their duty hours. The firearm restriction is lifted when the DVO expires, as long as the person has not been convicted of a qualifying crime or the order is not extended.

The second relevant firearm restriction amended the Gun Control Act in 1996 and is commonly referred to as the “Lautenberg Amendment.” This provision can be found at 18 U.S.C. § 922 (g)(9) and states that individuals who have been convicted of certain misdemeanor crimes of domestic violence are also barred from possessing or purchasing firearms and ammunition. This

provision has been particularly controversial because it is retroactive and does not contain an official-use exemption for law enforcement or military personnel. However, it has withstood several court challenges. In order for the misdemeanor to be a qualifying one, it must have as an element of the crime the use or attempted use of physical force or the threatened use of a deadly weapon. In Kentucky, the most common qualifying misdemeanor crime is Assault 4th.

This represents a quick overview of the federal gun prohibitions that impact domestic violence cases. If you would like more detail or have specific questions, please contact the Kentucky Domestic Violence Association at 502-209-5382 or contact me directly at lberan@kdva.org.



Family Court in the News

Is your Family Court making news? If you think your Family Court is newsworthy, contact Kelly Stephens at 800-928-2350 to request a news release. The AOC's Office of Public Information is responsible for preparing and distributing news releases for Family Court. If your news merits attention, Kelly will coordinate a news release with the AOC's public information officer who will distribute it to the appropriate media outlets.

¹ See U.S. Department of Justice, Bureau of Justice Statistics, *Homicide Trends in the U.S.*; “Intimate Homicide” available at www.jhsph.edu/bin/1/gUS_factsheet.pdf.

² Some “antique” weapons are excluded from the ban.

Family Court judges take active role in Mock Trial

By Karen Blackwell
Education Specialist
Court-Community Relations, AOC

Family Court judges joined their colleagues from across Kentucky to participate in the annual Mock Trial Tournament at the Capitol in March. Montgomery County High School in Mt. Sterling won the state championship and KY Tech/Madison Central High School in Richmond came in as runner-up.

The Kentucky High School Mock Trial Tournament is sponsored by the Administrative Office of the Courts' Department of Court-Community Relations and is considered one of the best law-related education programs in the state.

Since its inception in 1983, the program has involved more than 12,000 students, 1,200 judges and 1,500 attorneys. Today 30 Kentucky high schools have active mock trial teams.

The value of the Mock Trial Tournament lies in training high school students to analyze and interpret facts presented in civil and criminal cases. After a semester of practice, students take part in a

mock trial competition where they prepare a court case under the supervision of teachers and attorney coaches. The students portray lawyers, plaintiffs, defendants and witnesses before actual Kentucky trial and appellate court judges, usually in a courtroom setting.

The program, which is conducted in the second half of the school year, kicks off with regional competitions and culminates with a state championship event in the Kentucky Supreme Court chambers at the Capitol.

The Mock Trial Tournament is not just for students who want to pursue a career in law. Students who participate in the process develop debate and public speaking skills, learn deductive and inductive reasoning, improve reading comprehension and gain an interest in governmental studies. This dynamic, hands-on experience gives



Students from the Montgomery County High School Mock Trial Team brought home the 2004 championship trophy.

students a keen appreciation for the American legal process and increases the likelihood of their civic participation.

Each year a judge accompanies the Kentucky team to the national tournament. This year Family Court Judge David Melcher, who serves Harrison, Nicholas, Pendleton and Robertson counties, traveled with the Montgomery County team to Orlando, Fla., in May.

The Mock Trial staff extend a special thank you to the Family Court judges who help make this program successful: Judge Judy Hall, Judge Jean Logue, Judge Melcher, Judge Julie Paxton, Judge Bruce Petrie, Judge Timothy N. Philpot and Judge Reed Rhorer.

Do You Know JOE?

By Kelly Stephens, J.D.
Department of Family Court

Making sure that families can provide for their children is a common problem for courts and service providers. Henderson Family Court has tackled this issue with an innovative program named *Judgment or Employment, or JOE*.



Faced with the prospect of going to jail or getting a job, at least a fair amount of the population would choose employment.

Henderson Family Court Judge Sheila Nunley Farris is giving parents in her courtroom this choice with the cooperation of several government and community resources, including the Department for Vocational Rehabilitation, the Department for Employment Services, and the Adult Learning Center at Henderson Community College.

Judge Farris refers parents who are delinquent in paying child support to the *JOE* program so they can obtain employment and provide for their children instead of going to jail. The program monitors the progress of participants to ensure they are actively making contacts with employers and heading to work.

Noncompliance results in the promised judgment of jail time. This is a new program, but it is already producing success stories in Henderson County.

Symposium examines divorce education programs in state

By Nancy Hulett
Family Court Specialist, AOC

Divorce education facilitators from across the state took part in "Envisioning Our Future, One Day at a Time," a divorce education symposium held at the Holiday Inn Capitol Plaza in Frankfort in May. The attendees were on hand to learn more about all aspects of court-mandated programs for families going through the trauma of divorce.

The participants discussed the different types of divorce education programs currently available in Kentucky and the areas that are underserved. A panel of educators examined three programs: *Parent's Education*, *Parents Are For Good* and

FIT (Families In Transition). Another session focused on the art of dealing with high-conflict couples, angry adolescents and domestic violence. The keynote speaker discussed the value of using data to improve programs, and challenged the audience to continue to evaluate and expand divorce education resources.

Other sessions were titled "The Games Parents Play," "Cooperative Parenting and Divorce," and "Children's Programs and Participation."

"Divorce From the Attorney's Perspective" provided insight on how attorneys and the divorcing parents interact with the court during the legal process of divorce, custody and visitation. The Kentucky Commission on Human Rights presented a session on

the challenges of creating a program and educating diverse populations.

The Department of Family Court appreciates the speakers who volunteered their time to the symposium: Claudia Brewer, Joe Brown, Mary Lou Cambron, Cynthia Fox, LeAnn Francis, Laura Garcia-Hein, Dianna Hartley, Gayle Jimenez, Juan Pena, Bill and Eileen Slater, Gayle Tingle, Jeannie Trudel and Fayette County Family Court Judge Jo Ann Wise.

For more information on divorce education programs in Kentucky, visit www.kycourts.net then click on Administrative Office of the Courts, Family Court and Court Mandated Divorce Education, or call Nancy Hulett at 800-928-2350 x 2145.

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